

ENTERED

April 02, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

FRED HOFFMAN, III,

Plaintiff,

VS.

JAVIER MURO, *et al*,

Defendants.

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CIVIL NO. 2:18-CV-333

ORDER

The Court is in receipt of Defendant Warden Jeffrey Richardson's ("Richardson") Motion to Dismiss, Dkt. No. 78; Fred Hoffman's ("Hoffman") response to the motion to dismiss, Dkt. No. 70; Plaintiff's Emergency Motion for a Temporary Restraining Order (TRO) and Preliminary Injunction, Dkt. No. 53; Richardson's Response, Dkt. No. 56; Plaintiff's supplement to the motion seeking a TRO, Dkt. No. 61; Plaintiff's Second Notice to the Court of Relevant Information in Regard to Plaintiff's Emergency Motion, Dkt. No. 66;¹ Plaintiff's Motion for Sanctions, Dkt. No. 75; the Magistrate Judge's Memorandum and Recommendation ("M&R"), Dkt. No. 82; and Plaintiff's objections to the M&R, Dkt. No. 89.

After independently reviewing the filings, the record, and applicable law, the Court **ADOPTS** the M&R, Dkt. No. 82, in substance.² The Court **DENIES** the following motions:

¹ Docket entry 66 also included a motion by Plaintiff requesting that the Court take notice of mailing irregularities and asking the Court to replace certain missing docket entries and relevant documents in his three cases. Dkt. No. 66. This motion was denied on August 5, 2020. Dkt. No. 80.

² The M&R contains several scrivener's errors: the Court instead adopts the following corrected statements (with the corrections in bold type):

- "In this prisoner civil rights action . . . (2) Plaintiff's Emergency Motion for a Temporary Restraining Order (TRO) and Preliminary Injunction (D.E. **53**)." Dkt. No. 82 at 1.
- "On July 31, 2019, the undersigned issued a Memorandum and Recommendation (July 31, 2019 **M&R**), recommending that the motion to dismiss be denied in all respects." *Id.* at 3.

- Warden Richardson's Motion to Dismiss, Dkt. No. 78;
- Plaintiff's Emergency Motion for a TRO and Preliminary Injunction, Dkt. No. 53; and
- Plaintiff's Motion for Sanctions, Dkt. No. 75.

SIGNED this 2nd day of April 2021.



Hilda Tagle
Senior United States District Judge

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- “On October 3, 2019, the undersigned conducted a telephone hearing on Plaintiff's motion seeking preliminary injunctive relief. (D.E. 80).” [This was a minute entry with no docket number. The cite to **(D.E. 80)** should be deleted.]. *Id.* at 4.
 - “At this stage in the case, the undersigned cannot conclude . . . to correct any violation of **his** constitutional rights.” *Id.* at 10.
 - “For the foregoing reasons, IT IS RESPECTFULLY RECOMMENDED that Warden Richardson's Motion to Dismiss (D.E. 78) be DENIED in its entirety.” *Id.* at 16.
 - “IT IS RESPECTFULLY RECOMMENDED FURTHER that Plaintiff's motion seeking a TRO or preliminary injunctive relief (D.E. 53) and his Motion for Sanctions (D.E. 75) be DENIED.” *Id.*